IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : Crl. Revn. No. 1009 of 2006
Date of Decision : November 16, 2007.

Sahun alias Banmdar .... Petitioner

Vs.

State of Haryana .... Respondent

CORAM : HON'BLE MR. JUSTICE L. N. MITTAL

* * *

Present : None for the petitioner.

Mr.Ajay Ghangas, DAG, Haryana.

* * *

L.N.MITTAL, J. (Oral) :

Accused Sahun alias Banmdar has filed the instant revision petition by impugning order dated 07.03.2006 of learned Additional Sessions Judge/Special Judge, Gurgaon thereby dismissing the petitioner's application under Section 216 Cr.P.C., for alteration of charge.

According to the prosecution version, the petitioner while driving a Tata 407 vehicle, intentionally struck his said vehicle and hit Mukesh knowing that it could result in his death. Resultantly, Mukesh suffered injuries and succumbed to the same. The petitioner moved application under Section 216 Cr.P.C. for alteration of the charge, from that under Section 304 IPC already framed to one under Section 304-A IPC. The said application has been dismissed by learned trial court vide impugned order dated 07.03.2006. Feeling aggrieved, the petitioner has

filed the instant revision petition.

In spite of numerous opportunities having been given in the instant case, the petitioner has failed to place on record the statements relevant for considering the issue of charge, despite direction of this Court. Instead of producing the same, none is appearing for the petitioner today, in spite of pass over. It is thus evident that the petitioner is not interested in prosecuting the instant revision petition.

Even on merits, the instant revision petition cannot be allowed. The petitioner sought alteration of the charge on the ground that parents of the deceased have filed claim petition under Section 166 of the Motor Vehicles Act, 1988. However, the learned trial court has observed in the impugned order that even in the claim petition, it has been averred by the claimants that the petitioner did not stop his vehicle and struck the vehicle against the deceased who sustained multiple injuries and succumbed to the same. It has also been observed by the learned trial court that the petitioner cannot place material on record for the purpose of charge and he can adduce evidence only in his defence. It has also been observed in the impugned order that charge can be framed even on the basis of suspicion. There is no infirmity in the approach of the learned trial court on account of all these circumstances. On the other hand, even if, at the stage of charge, two views are possible, charge has to be framed for graver offence while at the time of final disposal, it is vice versa.

In view of the aforesaid, I find no infirmity in the impugned order of learned trial court. The instant revision petition is accordingly dismissed.

November 16, 2007 **(L.N.MITTAL)**
monika **JUDGE**